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Attorneys for Creditor Ely Eddi

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

**In re**

**LEHMAN BROTHERS INC.,**

**Debtor.**

**Case No. 08-014290  
(JMP) SIPA**

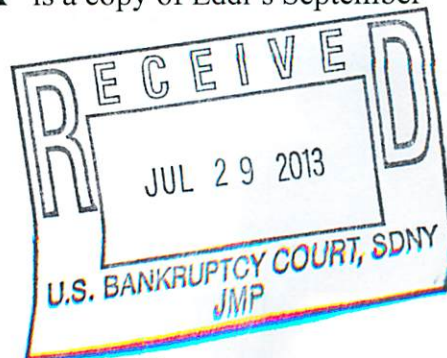
**ELY EDDI'S OPPOSITION TO TRUSTEE'S  
ONE HUNDRED SECOND (102<sup>ND</sup>) OMNIBUS OBJECTION TO CLAIMS**

Creditor Ely Eddi ("Eddi") asks that the Court overrule the Trustee's One Hundred and Second (102<sup>nd</sup>) Omnibus Object to Claims (the "Objection") to the extent that it requests Eddi's claim to be disallowed and expunged.

Eddi's Proof of Claim asserts a claim (the "Claim") in the amount of Two Hundred and Forty-Eight Thousand Nine Hundred (\$248,900.00) Dollars.

On or about July 11, 2007, the Debtor advised Eddi to purchase 13,100 shares of Carlyle Capital Corp. ("Carlyle"), at a cost of \$19.00 per share, for a total cost of \$248,900.00.

As of September of 2008, shares of Carlyle were valued at the market price of \$0.01, for a total market value of \$131.00. Annexed hereto as **Exhibit "A"** is a copy of Eddi's September 2008 account statement as provided to Eddi by the Debtor.



In light of the foregoing facts, the basis of Eddi's Claim is that the Debtor was negligent and/or breached its fiduciary duties to Eddi in its management of Eddi's brokerage account.

The basis of the Objection is that Eddi's account and assets were transferred by Debtor to Barclays Capital Inc. ("Barclays"). No further information has been provided.

It is respectfully submitted that the Objection must be overruled as it is not supported by the relevant facts or the law.

As an initial matter, the Claim is based upon theories of negligence and/or breach of fiduciary duties. Accordingly, whether or not Eddi's account and assets were transferred by the Debtor to Barclays has no bearing on this Claim.

Indeed, the fact that Barclays may have purchased some of the Debtor's property is irrelevant to Eddi's Claim. Rather, the relevant inquiry here, is who managed Eddi's account and assets at the time of the acts complained of by Eddi.

Here, the acts complained of by Eddi occurred in or about July of 2007.

Upon information and belief, the sale of some of Debtor's property, including Eddi's account and assets, took place sometime in October of 2008 -- subsequent to the commencement of this bankruptcy action. Upon information and belief, this sale did not involve all of Debtor's accounts as Barclays purchased only certain assets, including a select number of accounts.

It is respectfully submitted that the basis for the Objection is immaterial as the facts relevant to Eddi's Claim all occurred prior to the post-filing sale of Debtor's property to Barclays. Indeed, all of the relevant facts occurred during the Debtor's possession and management of Eddi's account and assets. It was the Debtor who recommended purchasing the shares of Carlyle at \$19.00 per share. It was the Debtor who advised retaining the shares of

Carlyle until they eventually reached a market value of \$0.01 per share. Indeed, it was the Debtor who should bear the liability for mismanaging \$248,900.00 of Eddi's assets down to \$131.00.

One need not look further than the September 2008 account statement annexed hereto as Exhibit "A", which reflects the following relevant facts:

- (a) The account statement was prepared by the Debtor, as evidenced by the "Lehman Brothers" logo in the upper-left corner;
- (b) The purchase of 13,100 shares of Carlyle, at a unit cost of \$19.00, for a total cost of \$248,900.00, occurred during the time that the Debtor possessed and managed Eddi's account and assets;
- (c) That the shares of Carlyle had a market value of \$0.01 per share, for a total market value of \$131.00, during the time that the Debtor possessed and managed Eddi's account and assets

The fact that the Debtor subsequently elected to sell some of its property to Barclays, post-filing, has absolutely no bearing on Eddi's Claim.

Moreover, and upon information and belief, there are outstanding issues related to the post-filing sale to Barclays, which are subject to active, pending litigation filed by the Debtor herein. Upon information and belief, the Debtor has commenced an action against Barclays wherein Debtor is seeking to recover some or all of the property transferred in connection with the post-filing sale to Barclays.

In light of the pending litigation relating to the post-filing sale, particularly the fact that the Debtor is seeking to recover some of the property transferred as part of the sale, it is respectfully submitted that it is improper to use the sale as the basis for disallowing or expunging Eddi's Claim.

Indeed, it is highly disingenuous and improper for the Debtor to use the circumstances surrounding the post-filing sale as both a sword (in the pending action against Barclays), and as a shield (in this bankruptcy proceeding).

For the reasons set forth herein, it is respectfully requested that the Court overrule the  
Objection and allow Eddi's Claim to proceed.

Dated: New York, New York  
July 24, 2013

Respectfully submitted,

MAX MARKUS KATZ, P.C.

By:



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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

**In re**

**LEHMAN BROTHERS INC.,**

**Debtor.**

**Case No. 08-014290  
(JMP) SIPA**

I, Ely Eddi, declare:

1. This declaration is based upon my personal knowledge, except those matters that are alleged to be upon information and belief, and as to those matters I believe them to be true.

2. I have submitted a Proof of Claim that asserts a claim (the "Claim") in the amount of Two Hundred and Forty-Eight Thousand Nine Hundred (\$248,900.00) Dollars.

3. I hereby ask that the Court overrule the Trustee's One Hundred and Second (102<sup>nd</sup>) Omnibus Object to Claims (the "Objection") to the extent that it requests my Claim to be disallowed and expunged.

4. On or about July 11, 2007, the Debtor advised me to purchase 13,100 shares of Carlyle Capital Corp. ("Carlyle"), at a cost of \$19.00 per share, for a total cost of \$248,900.00.

5. As of September of 2008, shares of Carlyle were valued at the market price of \$0.01, for a total market value of \$131.00. Annexed hereto as **Exhibit "A"** is a copy of my September 2008 account statement as provided to me by the Debtor.

6. In light of the foregoing facts, the basis of my Claim is that the Debtor was negligent and/or breached its fiduciary duties in its management of my brokerage account.

7. The basis of the Objection is that my account and assets were transferred by Debtor to Barclays Capital Inc. ("Barclays"). No further information has been provided.

8. It is respectfully submitted that the Objection must be overruled as it is not supported by the relevant facts or the law.

9. Indeed, the fact that Barclays may have purchased some of the Debtor's property is irrelevant to my Claim. Rather, the relevant inquiry here, is who managed my account and assets at the time of the acts complained of by me.

10. Here, the acts complained of occurred in or about July of 2007.

11. Upon information and belief, the sale of some of Debtor's property, including my account and assets, took place sometime in October of 2008 -- subsequent to the commencement of this bankruptcy action. Upon information and belief, this sale did not involve all of Debtor's accounts as Barclays purchased only certain assets, including a select number of accounts.

12. It is respectfully submitted that the basis for the Objection is immaterial as the facts relevant to my Claim all occurred prior to the post-filing sale of Debtor's property to Barclays. Indeed, all of the relevant facts occurred during the Debtor's possession and management of my account and assets. It was the Debtor who recommended purchasing the shares of Carlyle at \$19.00 per share. It was the Debtor who advised retaining the shares of Carlyle until they eventually reached a market value of \$0.01 per share. Indeed, it was the Debtor who should bear the liability for mismanaging \$248,900.00 of my assets down to \$131.00.

13. One need not look further than the September 2008 account statement annexed hereto as Exhibit "A", which reflects the following relevant facts:

- (a) The account statement was prepared by the Debtor, as evidenced by the "Lehman Brothers" logo in the upper-left corner;
- (b) The purchase of 13,100 shares of Carlyle, at a unit cost of \$19.00, for a total cost of \$248,900.00, occurred during the time that the Debtor possessed and managed Eddi's account and assets;

(c) That the shares of Carlyle had a market value of \$0.01 per share, for a total market value of \$131.00, during the time that the Debtor possessed and managed Eddi's account and assets

14. The fact that the Debtor subsequently elected to sell some of its property to Barclays, post-filing, has absolutely no bearing on my Claim.

I declare under penalties of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: July 24, 2013

  
\_\_\_\_\_  
Ely Eddi



# **Exhibit A**



**LEHMAN BROTHERS****Premier client account  
832-02904**

ELY EDDI

September 1 - September 30, 2008

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**Your investment  
representative:**

BARCLAYS CAPITAL INC  
399 PARK AVENUE  
6TH FLOOR  
NEW YORK NY 10022  
TEL: 800-392-5000

**Portfolio summary**

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- Bulletin board
- 5 Anticipated income
- 6 Equities summary
- 7 Holdings
- 9 Activity
- 10 Cash investment summary
- 11 Tax lots

**Valuation summary: USD**

Last period account value  
261,465.50  
This period account value  
241,641.92

*All transaction dates  
appearing on this statement  
are settlement dates, unless  
otherwise labeled.*

010938 02 AT 0.471 00063 LHDDGO02  
ELY EDDI  
C/O DIGITAL DATA DEVICES INC  
304 RARITAN CENTER PARKWAY  
EDISON NJ 08837-3609

**Bulletin board** (continued on pg.4)

As you are aware, the business of Lehman Brothers Private Investment Management ("PIM") is now part of Barclays Wealth, the wealth management division of Barclays Bank PLC, which operates in the United States as Barclays Capital Inc. As a client of PIM your account has been moved to Barclays Capital Inc. and remains safe and secure.

The September statement reflects the mid-month transfer. Additionally, as a new client of Barclays Wealth you will notice several differences from a branding perspective and you will see more of our new name and look in the upcoming months.

We want to thank you for your patience and loyalty in this unprecedented market environment. We look forward to continuing to work with you as we build on our success with our new partner. If you have any questions, please contact your Investment Representative.

**GO PAPERLESS**

Sign up for electronic delivery of account statements and trade confirmations and we will plant a tree on your behalf.

Visit [www.lehmanlive.com](http://www.lehmanlive.com) for details. If you currently do not have online access, please contact your Investment Representative.

Member SIPC

The Multi-tone area of this document changes gradually from light to dark. Heat sensitive "SECURITY MARK" on front of the document turns from Grey to Clear when heat is applied.



LEHMAN BROTHERS

Premier client account  
832-02904ELY EDDI  
September 1 - September 30, 2008

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**HOLDINGS**

In instances where prices of securities are not readily available, securities have no values, securities have not been actively traded or where other factors prevent the pricing of securities, \*\*\* appears in the market price column, the market value for the security is not computed and the total equity in your account does not reflect the long or short market value (if any) of those securities. Please also note that totals may differ from the sum on individual components due to rounding. Unrealized gain/loss total reflects all positions for which a cost basis is available. Please review the Tax Lot section for details regarding cost basis.

**Equities**

Your statement contains research ratings for companies covered by Lehman Brothers Equity Research. The ratings reflect both the Lehman Brothers rating and, where applicable, the ratings of an independent, third party research provider. You may obtain a copy of any independent research report, at no cost to you, where such research is available. Clients may access Lehman Brothers or independent research at [www.LehmanLive.com](http://www.LehmanLive.com) or by calling 1-800-2-LEHMAN. A complete description of Lehman Brothers and independent research providers and ratings may be found on Page 2 of your statement.

Common stocks (Symbol)	Quantity	Unit cost	Total cost	Market price	Market value	Unrealized gain/loss	Est. ann. yield (%)	Est. annual income (\$)	Comment / Research rating
***CARLYLE CAPITAL CORP LTD	13,100	\$ 19.00	\$ 248,900.00	\$ 0.01	\$ 131.00	-\$ 248,769.00			In cash account
DEP SHS REPSTG CL B 144A 3C7									In safekeeping: 13,100
COLONIAL BANCGROUP INC (CNB)	6,000	8.00	48,000.00	7.86	47,160.00	- 840.00	4.835	2,280.00	In cash account
									Lehman: 1-O/NEU
									MarketGrader: 3-SELL
<b>Total USD Common stocks</b>					<b>\$ 47,291.00</b>	<b>-\$ 249,609.00</b>		<b>\$ 2,280.00</b>	
Master limited partnerships	Quantity	Unit cost	Total cost	Market price	Market value	Unrealized gain/loss	Est. ann. yield (%)	Est. annual income (\$)	Comment / Research rating
WILLIAMS PIPELINE PARTNERS L P (WMZ)	9,000	\$ 20.00	\$ 180,000.00	\$ 13.96	\$ 125,640.00	-\$ 54,360.00	8.883	11,160.00	In cash account
COM UNIT REPSTG LTD PARTNER INT'S									Lehman: 1-O/NEU
									IPOfinancial.com: 2-HOLD
<b>Total Equities</b>					<b>\$ 172,931.00</b>	<b>-\$ 303,969.00</b>		<b>\$ 13,440.00</b>	

